

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-2191

IN RE: IT GROUP, INC.,
Debtor

JOHN ACCARDI; DAVID L. BACKUS;
ROCHELLE BOOKSPAN; MELISSA L.DUBINSKY;
DENNIS G. FENN; JOHN P. FRANZ;
WILLIAM A. GAUNTT; THOMAS W. GRIMSHAW;
DAVID W. HICKMAN; WARREN C. HOUSEMAN;
STEPHEN C. KENNEY; JAMES R. MAHONEY;
THOMAS R. MARTI; DAVIDW. MAYFIELD;
WILLIAM H. MCINTOSH; ROY MCKINNEY;
DAVID C.MCMURTRY; DANIEL C. MELCHIOR, III;
GEORGEANN N. MOREKAS; WILLIAM C. PARIS;
MATTHEW G. RADEK; KEVIN R. SMITH;
LOUIS STOUT; LEONARD YAMAMOTO;
JOHN E. FOLEY; JAMES M. REDWINE;
STEWART BORNHOFT; ENZO ZORATTO;
POLLY QUICK,

Appellants

v.

IT LITIGATION TRUST; IT GROUP, INC.,
and their Affiliates, as employers and fiduciaries,
administrators and sponsors of the Plan;
CARLYLE PARTNERS II, LP, as fiduciary of the Plan
and/or tortfeasor; ANTHONY DELUCA;
FRANCIS J. HARVEY; HARRY J. SOOSE, as fiduciaries of
the Plan and as officers; IT CORPORATION DEFERRED
COMPENSATION PLAN EFFECTIVE JANUARY 1, 1996

On Appeal from the United States District Court
for the District of Delaware
(D.C. Civil No. 04-cv-00146)
District Judge: Honorable Joseph J. Farnan, Jr.

Argued April 3, 2006
Before: RENDELL, SMITH, and BECKER*, Circuit Judges

(Filed : July 10, 2006)

John M. Stull
1300 North Market Street
P. O. Box 1947
Wilmington, DE 19899

* The Honorable Edward R. Becker died on May 19, 2006.

Thomas A. Johnson [ARGUED]
Suite 201
33 West Mission Street
Santa Barbara, CA 93101

Counsel for Appellants

*John Accardi; David L. Backus; Rochelle Bookspan;
Melissa L. Dubinsky; Dennis G. Fenn; John P. Franz;
William A. Gauntt; Thomas W. Grimshaw;
David W. Hickman; Warren C. Houseman;
Stephen C. Kenney; James R. Mahoney;
Thomas R. Marti; David W. Mayfield;
William H. McIntosh; Roy McKinney;
David C. McMurtry; Daniel C. Melchior, III;
Georgeann N. Morekas; William C. Paris;
Matthew G. Radek; Kevin R. Smith; Louis Stout;
Leonard Yamamoto; John E. Foley;
James M. Redwine; Stewart Bornhoft;
Enzo Zoratto; Polly Quick*

Jeffrey M. Schlerf
The Bayard Firm
222 Delaware Avenue
P. O. Box 25130, 9th Floor
Wilmington, DE 19899

John K. Cunningham
Ileana A. Cruz
White & Case
200 South Biscayne Boulevard
Suite 4900

Miami, FL 33131

Counsel for Appellees

*IT Litigation Trust; IT Group, Inc.,
and Their Affiliates, As Employers and
Fiduciaries, Administrators and Sponsors
of the Plan*

Mark D. Collins
Jason M. Madron
Richards, Layton & Finger
One Rodney Square
P. O. Box 551
Wilmington, DE 19899

Timothy L. Patten
Latham & Watkins
555 11th Street, N.W.
Suite 1000
Washington, DC 20004

Counsel for Appellees

*Carlyle Partners II, LP, as Fiduciary of the
Plan And/or Tortfeasor*

Ronald S. Gellert
Eckert, Seamans, Cherin & Mellott
1515 Market Street, Suite 900
Philadelphia, PA 19102

Mark A. Willard
Delia B. Bianchin
Sandra R. Mihok
Eckert, Seamans, Cherin & Mellott
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Counsel for Appellee
Anthony DeLuca

Michael J. Prame [ARGUED]
Groom Law Group Chartered
1701 Pennsylvania Avenue, N.W.
Suite 1200
Washington, DC 20006

Counsel for Appellee
Francis J. Harvey

Charles A. DeMonaco
Dickie, McCamey & Chilcote
Two PPG Place
Suite 400
Pittsburgh, PA 15222-5402

Counsel for Appellee
Harry J. Soose, as Fiduciaries of the Plan
and as Officers

AMENDMENT TO PRECEDENTIAL
OPINION AND JUDGMENT OF THE COURT

Upon consideration of the uncontested motion by United States Trustee requesting that the Court issue an Order Amending the Opinion and Caption to delete the reference to “Mark S. Kenny, Trustee,” it is hereby

ORDERED that the captions of the Court’s Opinion and Judgment entered on May 25, 2006 be and the same are hereby so amended.

BY THE COURT:

/s/ Marjorie O. Rendell

Circuit Judge

Dated: July 10, 2006